



## RESOLUTION

PROPOSING AN AMENDMENT TO CHAPTER 21, REVISED ORDINANCES OF HONOLULU 1990 (THE LAND USE ORDINANCE), AS AMENDED, RELATING TO GENETICALLY MODIFIED ORGANISM ("GMO") CROPS.

WHEREAS, health testing of the effects of exposure to genetically modified or engineered organisms ("GMOs") in food is not required by any government agency; and

WHEREAS, the lack of comprehensive safety testing leaves a potentially dangerous scientific void in the knowledge available about the short- and long-term health effects on animals and humans of the ingestion of genetically engineered crops; and

WHEREAS, there is inadequate regulatory monitoring and oversight of GMO crops by the state and federal governments necessary to ensure public health and environmental safety; and

WHEREAS, farmers who choose not to grow GMO crops currently have no clear legal recourse if their non-GMO crops are contaminated by genetically engineered pollen or seeds; and

WHEREAS, crops engineered to be resistant to pests or disease may speed the mutation of the pests and disease-causing viruses, bacteria and fungi to be resistant to treatments used by producers using non-resistant crops; and

WHEREAS, currently, adequate safeguards do not exist to prevent genetically engineered contamination of non-GMO crops that can result from human causes and forces of nature (such as wind, flooding, birds, bees and other insects, and other animals); and

WHEREAS, the potentially devastating economic and environmental impacts of such contamination on producers of non-genetically engineered crops and on the City's unique and fragile ecosystem are unknown; and

WHEREAS, the Council finds that regulating where GMO crops can be grown deserves its scrutiny; and

WHEREAS, Section 6-1513 of the Revised Charter of the City and County of Honolulu 1973, as amended (RCH), provides that "[a]ny revision of or amendment to the zoning ordinances may be proposed by the council and shall be processed in the same manner as if proposed by the director [of planning and permitting]"; and



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WHEREAS, Section 6-1513, RCH, further provides that "[a]ny such revision or amendment shall be referred to the director and the planning commission by resolution, which resolution shall be accompanied by supporting documentation sufficient to satisfy the director's usual requirements for the commencement of processing"; and

WHEREAS, for the purposes of the RCH, the term "zoning ordinances" refers both to the codification of land use standards in the Land Use Ordinance and to ordinances zoning and rezoning particular parcels of property (Section 6-1514, RCH); and

WHEREAS, it is the desire of the City Council that the Director of Planning and Permitting and Planning Commission process the proposed amendment to Chapter 21, Revised Ordinances of Honolulu (ROH) 1990, as amended, attached hereto as Exhibit "A"; now, therefore,

BE IT RESOLVED by the Council of the City and County of Honolulu that the Director of Planning and Permitting is directed, pursuant to Section 6-1513 of the Revised Charter of the City and County of Honolulu 1973, as amended, to process the proposed amendment to Chapter 21, ROH 1990 (the Land Use Ordinance), attached hereto as Exhibit "A," in the same manner as if the proposal had been proposed by the Director; and

BE IT FURTHER RESOLVED that the Director of Planning and Permitting is directed to inform the Council upon the transmittal of the Director's report and the proposed Land Use Ordinance amendment to the Planning Commission; and

BE IT FURTHER RESOLVED that if the Director of Planning and Permitting decides to initiate an alternative to the proposal attached hereto as Exhibit "A," the Director is directed to transmit both the attached proposal and the Director's alternative to the Planning Commission, and the Planning Commission is directed to transmit both proposals and its recommendation on both proposals to the Council; and



**CITY COUNCIL**  
CITY AND COUNTY OF HONOLULU  
HONOLULU, HAWAII

No. 12-130

**RESOLUTION**

BE IT FINALLY RESOLVED that certified copies of this Resolution and the Exhibit attached hereto be transmitted to the Director of Planning and Permitting and the Planning Commission of the City and County of Honolulu.

INTRODUCED BY:

TOM BERG

DATE OF INTRODUCTION:

**MAY 29 2012**

Honolulu, Hawaii

Councilmembers

## **EXHIBIT A**



## **A BILL FOR AN ORDINANCE**

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**RELATING TO AGRICULTURE.**

**BE IT ORDAINED** by the People of the City and County of Honolulu:

**SECTION 1. Findings and Purpose.** The Council finds that:

- A. There is inadequate regulatory monitoring and oversight of genetically modified organism or genetically engineered crops ("GMO" crops) by the federal and state governments necessary to ensure public health and environmental safety.
- B. Health testing of the effects of exposure to genetically engineered organisms in food is not required by any government agency. The lack of comprehensive safety testing leaves a potentially dangerous scientific void in the knowledge available about the short- and long-term health effects on animals and on humans of the ingestion of genetically engineered crops.
- C. Farmers who choose not to grow genetically engineered crops currently have no clear legal recourse if their non-genetically engineered crops are contaminated by genetically engineered pollen or seeds.
- D. Crops engineered to be resistant to pests or disease may speed the mutation of the pests and disease-causing viruses, bacteria and fungi to be resistant to treatments used by producers of non-resistant crops.
- E. Currently, adequate safeguards do not exist to prevent genetically engineered contamination of non-genetically engineered crops that can result from forces of nature and human causes. The potentially devastating economic and environmental impacts of this contamination on producers of non-genetically engineered crops and on the City's unique and fragile ecosystem are unknown.

It is the purpose of this ordinance to promote the health, safety and welfare of the people of the City and County of Honolulu by restricting the production of GMO crops and the sale and storage of the seeds of GMO crops.

**SECTION 2.** Chapter 21, Table 21-3 ("Master Use Table"), Revised Ordinances of Honolulu 1990, as amended, is amended by amending the "crop production" and "storage and sale of seed, feed, fertilizer and other products essential to agricultural production" uses in the Agriculture" category to read as follows:



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### "TABLE 21-3 MASTER USE TABLE

In the event of any conflict between the text of this Chapter and the following table, the text of the Chapter shall control. The following table is not intended to cover the Waikiki Special District; please refer to Table 21-9.6(A).

<b>KEY</b>	Ac	=	Special accessory use subject to standards in Article 5
	Cm	=	Conditional Use Permit-minor subject to standards in Article 5; no public hearing required (see Article 2 for exceptions)
	C	=	Conditional Use Permit-major subject to standards in Article 5; public hearing required
	P	=	Permitted Use
	P/c	=	Permitted use subject to standards in Article 5
	PRU	=	Plan Review Use

ZONING DISTRICTS																					
USES ( <u>Note</u> : Certain uses are defined in Article 10.)	P-2	AG-1	AG-2	Country	R-20, R-10	R-7.5, R-5, R-3.5	A-1	A-2	A-3	AMX-1	AMX-2	AMX-3	Resort	B-1	B-2	BMX-3	BMX-4	I-1	I-2	I-3	IMX-1

#### AGRICULTURE

Crop production	P/c	P/c	P/c	P/c																	
Storage and sale of seed, feed, fertilizer and other products essential to agricultural production		P/c	P/c															P/c	P/c		

SECTION 3. Chapter 21, Article 5 ("Specific Use Development Standards"), Revised Ordinances of Honolulu 1990, as amended, is amended by adding a new section to be designated by the revisor of ordinances and to read as follows:

#### **"Sec. 21-5. Crop production.**

- (a) Crop production shall be limited to production of crops that are not GMO crops.
- (b) Any person engaged in crop production shall maintain records regarding the source of the seed, cuttings or other material from which the crops are produced in such detail as the director may prescribe by rule so as to enable the director to determine whether the crop production complies with this chapter.

SECTION 4. Section 21-5.620, Revised Ordinances of Honolulu 1990, as amended, is amended to read as follows:



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**"Sec. 21-5.620 Storage and sale of seed, feed, fertilizer and other products essential to agricultural production.**

(a) In the agricultural zoning districts, the following standards shall apply:

[(a)] (1) Only products which are clearly incidental to agricultural activities shall be permitted.

[(b)] (2) Maximum building area shall not exceed 25 percent of lot area.

[(c)] (3) No such facility shall be located within 300 feet of any adjoining residential, apartment or apartment mixed use district.

(b) In the agricultural and industrial zoning districts, seed storage and sales shall be limited to seed for crops that are not GMO crops.

(c) Any person engaged in seed storage and sales shall maintain records regarding the source of the seed being stored, sold or offered for sale in such detail as the director may prescribe by rule so as to enable the director to determine whether the storage or sale complies with this chapter."

SECTION 5. Section 21-10.1, Revised Ordinances of Honolulu 1990, as amended, is amended by adding three new definitions to be inserted by the revisor of ordinances in their proper alphabetical order and to read as follows:

""DNA" means deoxyribonucleic acid, the material naturally found within the cells of a living organism containing the cells' genetic code and transmitting hereditary patterns to offspring of the organism."

""GMO crops" or "genetically modified organism crops" means plants or the offspring of plants, the DNA of which has been altered or amended through genetic engineering. Such crops are also commonly referred to as "genetically engineered crops" or "transgenic crops.""

""Genetic engineering" means altering or amending DNA using recombinant DNA technology such as gene deletion, gene doubling, introduction of a foreign gene, or changing the position of genes, and includes cell fusion, micro encapsulation, macro encapsulation, gene splicing, and other similar processes. The term does not include traditional selective breeding, conjugation, fermentation, hybridization, simple in vitro fertilization or tissue culture."



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SECTION 6. Section 21-4.110, Revised Ordinances of Honolulu 1990, as amended ("Nonconformities"), is amended by amending subsection (c) to read as follows:

- "(c) **Nonconforming Uses.** Strict limits are placed on nonconforming uses to discourage the perpetuation of these uses, and thus facilitate the timely conversion to conforming uses.
- (1) A nonconforming use shall not extend to any part of the structure or lot which was not arranged or designed for such use at the time of adoption of the provisions of this chapter or subsequent amendment; nor shall the nonconforming use be expanded in any manner, or the hours of operation increased. Notwithstanding the foregoing, a recreational use that is accessory to the nonconforming use may be expanded or extended if the following conditions are met:
    - (A) The recreational accessory use will be expanded or extended to a structure in which a permitted use also is being conducted, whether that structure is on the same lot or an adjacent lot; and
    - (B) The recreational accessory use is accessory to both the permitted use and the nonconforming use.
  - (2) Any nonconforming use that is discontinued for any reason for 12 consecutive months, or for 18 months during any three year period, shall not be resumed; however, a temporary cessation of the nonconforming use for purposes of ordinary repairs for a period not exceeding 120 days during any 12-month period shall not be considered a discontinuation.
  - (3) Work may be done on any structure devoted in whole or in part to any nonconforming use, provided that work on the nonconforming use portion shall be limited to ordinary repairs. For purposes of this subsection, ordinary repairs shall only be construed to include the following:
    - (A) The repair or replacement of existing walls, floors, roofs, fixtures, wiring or plumbing; or



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- (B) May include work required to comply with city, state, or federal mandates such as, but not limited to, the Americans with Disabilities Act (ADA) or the National Environmental [Protection] Policy Act (NEPA); or
- (C) May include interior and exterior alterations, provided that there is no physical expansion of the nonconforming use or intensification of the use.

Further, ordinary repairs shall not exceed 10 percent of the current replacement cost of the structure within a 12-month period, and the floor area of the structure, as it existed on October 22, 1986, or on the date of any subsequent amendment to this chapter pursuant to which a lawful use became nonconforming, shall not be increased.

- (4) This subsection shall not apply to crop production of GMO crops or to the storage and sale of the seed of GMO crops."

SECTION 7. Ordinance material to be repealed is bracketed. New material is underscored. When revising, compiling or printing this ordinance for inclusion in the Revised Ordinances of Honolulu, the revisor of ordinances need not include the brackets, the bracketed material, or the underscoring.



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SECTION 8. This ordinance shall take effect upon its approval.

INTRODUCED BY:

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DATE OF INTRODUCTION:

\_\_\_\_\_  
Honolulu, Hawaii

\_\_\_\_\_  
Councilmembers

APPROVED AS TO FORM AND LEGALITY:

\_\_\_\_\_  
Deputy Corporation Counsel

APPROVED this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
Mayor  
City and County of Honolulu